

Message Text

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SUBJECT: REVISION OF 1973 BOLIVIAN NARCOTICS LAW

1. SUMMARY: SINCE EARLY 1976 GOB HAS BEEN WORKING SLOWLY AND CAREFULLY ON REVISING NARCOTICS LAW. EMBASSY HAS BEEN PRESSING FOR MORE REALISTIC, MANDATORY JAIL SENTENCES AND TO CLARIFY ROLES INTERIOR AND AGRICULTURE MINISTRIES.

AGAINST STRONG RESISTANCE IT APPEARS NOW THAT MORE ADEQUATE GOB REVISED LAW WILL BE ADOPTED. DILEMMA BETWEEN OUR WISH FOR SPEEDY COURT DECISIONS AND REASONABLE SENTENCES MAY NOW BE RESOLVED. END SUMMARY.

2. EARLY IN 1976 THE BOLIVIAN AUTHORITIES AND THE US MISSION IN LA PAZ BECAME INCREASINGLY AWARE THAT THE 1973 NARCOTICS LAW NEEDED TO BE REVISED TO STRAIGHTEN OUT RELATIONS IN THE AGRICULTURAL AREA BETWEEN THE MINISTRIES OF INTERIOR AND AGRICULTURE, TO CLARIFY OBJECTIVES OF COCA CROP RATIONALIZATION, AND TO CHANGE THE MANDATORY SENTENCES FOR NARCOTIC VIOLATORS. A BOLIVIAN COMMISSION WAS FORMED AND BEGAN HOLDING A SERIES OF MEETINGS IN THE SPRING OF 1976. IT WAS THIS MISSION'S HOPE THAT THE WORK WOULD BE COMPLETED RAPIDLY AND THAT A NEW LAW WOULD BE

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ON THE BOOKS PROMPTLY TO STIMULATE MORE EFFECTIVE ACTION

IN THE NARCOTICS FIELD. IT WAS ALSO OUR HOPE THAT THE REVISION OF THE LAW WOULD LESSEN MANDATORY SENTENCES ON NARCOTICS OFFENDERS FOR THE BENEFIT OF US CITIZEN PRISONERS HELD IN BOLIVIAN JAILS. IN ANTICIPATION OF THE HOPED-FOR MODIFICATION OF THE SENTENCES THEIR LAWYERS DROPPED THEIR PRESSURE ON THE AUTHORITIES FOR SPEEDY COURT DECISIONS AND ADOPTED A WAIT-AND-SEE ATTITUDE. UNFORTUNATELY, IT SOON BECAME EVIDENT THAT THE BOLIVIAN COMMISSION WOULD TAKE CONSIDERABLE TIME TO COMPLETE ITS WORK BECAUSE IT WISHED TO CONSULT WITH AS MANY JUDGES AND FISCALES AROUND THE COUNTRY AS IT POSSIBLY COULD AND BECAUSE THE MEMBERS OF THE COMMISSION WERE UNABLE TO DEVOTE FULL TIME TO THE REVISION OF THE LAW. FURTHERMORE, AND PERHAPS MORE IMPORTANTLY, WE DETECTED A MASSIVE OPPOSITION TO LOWERING THE MANDATORY SENTENCES PROVIDED IN THE 1973 LAW. ACCORDINGLY, THIS MISSION, AT VARIOUS LEVELS, IN THE SPRING AND EARLY SUMMER OF 1976, BEGAN TO LOBBY WITH GOB OFFICIALS FOR A SPEED-UP IN THE WORK OF THE COMMISSION AND TO EDUCATE THE MEMBERS AND OTHER OFFICIALS TO THE ADVANTAGES OF LOWERING MANDATORY JAIL SENTENCES, PARTICULARLY FOR MINOR OFFENSES.

3. IN MID-JULY A DRAFT RESOLUTION WAS PRODUCED BY THE COMMISSION AND CIRCULATED TO KEY OFFICIALS OF THE GOB. WHEN WE OBTAINED A COPY WE WERE DISAPPOINTED THAT THEIR CHANGES IN THE SENTENCING PROCEDURES WERE MINIMAL AND THAT SIMPLE POSSESSION REQUIRED A JUDGE TO IMPOSE A MANDATORY FIVE-YEAR JAIL SENTENCE. ALSO, THE RELATIONSHIPS BETWEEN THE MINISTRIES OF INTERIOR AND AGRICULTURE ON CROP RATIONALIZATION IN THE YUNGAS AND CHAPARE WERE NOT WELL SPELLED OUT. SENSING THE NEED FOR MORE DIRECT AND HIGHER-LEVEL ACTION, THE AMBASSADOR ARRANGED FOR A WORKING LUNCHEON WITH THE MINISTERS OF INTERIOR AND AGRICULTURE AND THEIR PRINCIPAL SUBORDINATES CONCERNED WITH THE COCA PROBLEM AND WITH LEADING MEMBERS OF THIS MISSION. POSSIBLY FOR THE FIRST TIME THERE WAS A DIRECT CONFRONTATION BETWEEN THE TWO MINISTERS ON THE RESPECTIVE ROLES OF THEIR MINISTRIES IN THE RATIONALIZATION WORK IN THE COCA-PRODUCING AREAS. AFTER A LENGTHLY AND OFTEN HEATED DISCUSSION, IT WAS AGREED THAT THE SUBSECRETARY OF LIMITED OFFICIAL USE

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AGRICULTURE AND THE DIRECTOR OF DNSP WOULD MEET TO PROVIDE A FORMULA PUTTING THE TECHNICAL WORK OF SUBSTITUTION INTO THE HANDS OF THE MINISTER OF AGRICULTURE BUT RETAINING THE COORDINATION OF THAT AND OTHER CONTROL AND REPRESSION ACTIVITIES IN DNSP. THE AMBASSADOR MADE A STRONG PRESENTATION FOR MODIFICATION AT LEAST OF THE MANDATORY FIVE-YEAR PROVISION IN THE REVISED LAW FOR SIMPLE POSSESSION. THE MINISTER OF INTERIOR OFFERED TO HAVE THE MATTER REEXAMINED. IN

SUBSEQUENT WEEKS IT WAS LEARNED THAT THE STRUGGLE BETWEEN THE TWO MINISTRIES WAS CONTINUING WITHOUT RESOLUTION AND THAT OPPOSITION TO LESSEN THE MANDATORY SENTENCES HAD NOT BEEN OVERCOME.

4. IN EARLY SEPTEMBER THE NICHOLSON MISSION TO SURVEY THE EXPANDED NARCOTICS WORK RESULTED IN ANOTHER MEETING BETWEEN THE TWO MINISTERS AND KEY MEMBERS OF THE US MISSION. IT BECAME CLEAR TO THE MINISTER OF INTERIOR THAT THE COMPROMISE FORMULA AND THE RECONSIDERATION OF SENTENCING HAD NOT BEEN SUCCESSFULLY CARRIED OUT. HE REPEATED HIS EARLY INSTRUCTIONS AND SUPPORTED THEM WITH HIS ASSERTION OF PRESIDENTIAL SUPPORT. IN THE SUCCEEDING WEEKS SEVERAL MEETINGS WERE HELD BETWEEN THE TWO MINISTRIES AND DRAFTS WERE EXCHANGED PROPOSING A REORGANIZATION WITHIN THE MINISTRY OF AGRICULTURE FOR THE EXCLUSIVE WORK ON COCA CROP SUBSTITUTION. IT WAS APPARENTLY DECIDED THAT UNTIL THESE ARRANGEMENTS WERE COMPLETED REFERENCES IN THE LAW COULD NOT BE SATISFACTORILY WORKED OUT. OPPOSITION TO CHANGING THE MANDATORY SENTENCING FOR SIMPLE POSSESSION CONTINUED. FIANLLY, IN MID-NOVEMBER THE AMBASSADOR MET PRIVATELY WITH THE MINISTER OF INTERIOR TO PRESS FOR REVISION OF THE LAW ALONG THE LINE PREVIOUSLY AGREED TO AND RECEIVED ASSURANCES THAT THE MATTER WOULD BE RESOLED PROMPTLY. IN THE FIRST WEEK OF DECEMBER SEVERAL MEETINGS WERE HELD BETWEEN THE MINISTRIES OF INTERIOR AND AGRICULTURE AND IT IS OUR UNDERSTANDING THAT THE RELATIONSHIPS BETWEEN THE TWO WERE DETERMINED AND THE STRUCTURE OF THE MINISTRIES TO COPE WITH THE COCA CROP SUBSTITUTION WERE RESOLVED. A NEW DRAFT, THE THIRD OF ITS KIND, OF THE REVISED NARCOTICS LAW WAS RECEIVED BY US IN THE FIRST WEEK OF DECEMBER. IT NOW MORE SATISFACTORILY CLARIFIES THE LAW OF THE TWO MINISTRIES IN RATIONALIZATION EFFORTS AND REDUCES THE MANDATORY SENTENCING FOR SIMPLE POSSESSION TO A TWO- TO LIMITED OFFICIAL USE

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EIGHT-YEAR PERIOD WITH A FINE OF 10,000-20,000 PESOS. FURTHERMORE, THERE IS NOW INCLUDED IN THE LAW A PROVISION FOR CONDITIONAL LIBERTY AFTER CONVICTION WHEREIN THE PRISONER NEED SERVE ONLY TWO-THIRDS OF THE TERM PROVIDED HE HAS MAINTAINED GOOD BEHAVIOR. OTHER SENTENCING FOR INFRACTIONS OF THE LAW HAVE BEEN ADJUSTED IN A REALISTIC FASHION. IT IS OUR EXPECTATION THAT THIS VERSION OF THE LAW, WHICH IS MUCH MORE SATISFACTORY THAN ITS PREDECESSOR, WILL BE ENACTED IN THE MONTH OF DECEMBER.

5. WE HOPE THAT THIS RESUME OF THE LENGTHY AND SOMETIMES FRUSTRATING WORK ON REVISING THE BOLIVIAN NARCOTICS LAW WILL ASSIST THE DEPARTMENT IN UNDERSTANDING WHAT HAS BEEN HAPPENING HERE AND TO APPRECIATE THE EFFORTS THAT HAVE BEEN MADE BY THIS MISSION TO IMPROVE THE LEGISLATION PERTAINING

TO NARCOTICS ACTIVITIES. WITH THE APPROVAL OF THIS LAW WE

WILL BE IN A POSITION TO PUSH FOR RAPID DECISIONS ON CHARGES
OF NARCOTICS VIOLATIONS. MANY PRISONERS WILL NOT BE HELPED
BY THE REVISION OF THE LAW AND MAY BE SENTENCED TO
CONSIDERABLE TERMS BY OUR PRESSURE FOR ACCELERATION OF
COURT DECISIONS. THIS MAY PROVOKE CONCERN BY PARENTS
AND CONGRESSMEN BUT IS IS HOPED THAT THIS WILL RESOLVE THE
COMPLAINTS TO DATE ABOUT LENGTHY DETENTIONS PRIOR TO DECISIONS.
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